

LUZON STEVEDORING CORPORATION, PETITIONER, VS. SOCIAL SECURITY COMMISSION, LEOCADIO PAROHINOG, HERMENEGILDO RAYMUNDO AND ANIANO CASTILLO, RESPONDENTS.*G.R. No. L-26175. July 31, 1970*

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/4f1fde116ca4/>**FERNANDO, J.:**

An inquiry into the principal legal question raised by petitioner Luzon Stevedoring Corporation, seeking a review of a resolution of January 11, 1966, of respondent Social Security Commission, which set aside a reduction in the monthly pension of three retired employees, the private respondents, is foreclosed by our holding in *Rivera v. San Miguel Brewery Corp.*[1] It is petitioner's contention that the appealed resolution of respondent Commission is bereft of support in law, as the integration of its private pension plan with the Social Security System could not have the legal effect of increasing its financial liability. Such a view of petitioner, asserted before respondent Commission and adhered to tenaciously in its brief submitted on May 2, 1967, was reflected in the aforesaid *San Miguel Brewery Corporation* case, decisive of this controversy. It could not have been relied upon by petitioner as it was decided only after a year and two months later. Respect for its controlling force calls for a reversal of the resolution now on appeal.

There is no dispute as to the facts. As noted in the brief for petitioner Luzon Stevedoring Corporation: "Respondents Parohinog, Raymundo and Castillo are retired employees of the petitioner at the latter's branch office in Davao; Parohinog having retired on November 30, 1962, Raymundo on December 31, 1961 and Castillo on April 30, 1960. Since their retirement Parohinog, Raymundo and Castillo received monthly pensions from the petitioner in the amounts of P140.93, P120.14 and P49.50, respectively pursuant to the petitioner's 1952 Plan for Pensions and Death Benefits, a private plan exclusively maintained by herein petitioner and to which none of the individual respondents nor any employee of the petitioner for that matter contributes a single centavo. In July 1963 the monthly pension of Parohinog, Raymundo and Castillo were reduced by P22.99, P28.59 and P14.58 respectively petitioner having exercised the prerogatives it reserved for it in the 1952 Plan for Pensions and Death Benefits." [2] Such reduction was questioned by respondents Parohinog, Raymundo and Castillo before the Social Security Commission. An agreed statement of facts was submitted by the parties, after a motion to dismiss filed by the Luzon Stevedoring Corporation on the ground of lack of jurisdiction was denied. According to such stipulation: "That petitioners are retired employees of the respondent, both family men, Parohinog of 65 years and 9 months; Castillo of 63 years and 11 months; and Raymundo 62 years and 11 months; That petitioners Parohinog rendered 36 years and 6 months since with the respondent; Castillo, 25 years and 10 months; and Raymundo, 28 years and 7 months; That by virtue of and under the 1952 Plan for Pensions and Death Benefits adopted by the respondent effective since July 1, 1952, and in view of their length of service and the rates of monthly pays, petitioners were granted lump sum retirement allowances and monthly pensions as computed by respondent in the attached schedules for individual petitioners, * * *; That both petitioners and respondent are covered members since 1958 of the Social Security System, with membership numbers as alleged in paragraph 2 of the petition; and

that with respect to the premiums paid by petitioners and the contributions paid by the respondent to these premiums, the Honorable Commission may take judicial notice from the records and files of the system; That under the unintegrated 1952 Plan for Pensions and Death Benefits of respondent, petitioner Parohinog received a monthly pension of P140.93 since his retirement on November 30, 1962; Aniano Castillo, the sum of P49.50 since his retirement on April 30, 1960; and Raymundo, the sum of P120.14 since his retirement on December 31, 1961; That on March 15, 1963, respondent issued to all its Davao Branch employees a memorandum, integrating its 1952 Plan for Pensions and Death Benefits with the Social Security System* * *; That with respect to the petitioners, the integration was sought to be implemented by respondent, beginning the month of July, 1963, and as a result thereof, petitioner Parohinog was to receive P140.93 to P110.94 a month, a reduction of P29.99; Castillo from P49.50 to P34.90, or a reduction of P14.50; and Raymundo from P120.14 to P91.55, or a reduction of P28.59; That the reduction of P29.99, P14.58 and P28.59 from the respective pensions of Parohinog, Castillo and Raymundo received from the respondent are seven-twelfth (7/12) of P51.42, P25.00 and P49.02 which they respectively receive from the Social Security System as their monthly pensions therefrom * * *; That petitioners admit that respondent's 1952 Plan for Pensions and Death Benefits is exclusively maintained by said respondent, to which petitioners or any employee of the said respondent do not contribute a single centavo; and That the parties admit that petitioner's reduced pension as alleged in paragraph 7 hereof, from the month of July, 1963 up to the present, have been paid and received by petitioners from respondent subject to the reservation that despite the receipt of said reduced pensions, the parties submit to this Honorable Commission the issue of the legality or illegality of said reductions as a result of the integration of respondent's 1952 Plan for Pensions and Death Benefits with the Social Security System, * * *. "[3]

Thereafter, the respondent Commission issued the aforesaid resolution of January 11, 1966, the dispositive portion of which reads: "[Wherefore], the petition is hereby granted and the respondent directed to pay to petitioner Leocadio G. Parohinog the amount of P29.99, to petitioner Hermenegildo E. Raymundo the sum of P28.59, and to petitioner Aniano C. Castillo the sum of P14.58, representing the monthly reductions from the appropriate pensions under its private plan from July, 1963, contrary to Section 9 of the law, in relation to the parties' agreement, and to continue paying them said amounts in addition to the reduced pensions they are now receiving for as long as they are entitled thereto." [4] Hence, this petition for review which, as noted at the outset, is on solid ground in view of our decision in *Rivera v. San Miguel Corporation* already referred to. We have no choice then but to find for petitioner.

1. Petitioner, in its resolute effort to do away with the appealed resolution, would go further than merely challenge its conformity with law. Its first error assigned would deny respondent Commission any authority to act on the matter in question. It does not merely seek to fasten a restrictive interpretation to Section 5 of the Social Security Act which, on its face, would show that any dispute arising therein "with respect to coverage entitlement to benefits, collection and settlement of premium contributions and penalties thereon, or any other matter related thereto, shall be cognizable by the Commission * * *. "[5] On its face, support for the competence of respondent Commission to decide as to whether or not private respondents could be made to suffer a reduction in their pensions would thus seem to be evident. Nonetheless, by viewing most narrowly the authority thus conferred, petitioner would allege the contrary. It would go even further invoking the principle of separation of powers to maintain that as the matter is primarily judicial, the judiciary, not respondent Commission, is vested with jurisdiction.

Petitioner thus pays obeisance to a concept of separation of powers, in all its traditional rigidity, oblivious of considerations that preclude an inflexible adherence to such a postulate if government under the stress and strain of problems of ever-increasing complexity is to discharge effectively its responsibilities. It is to be admitted that the functions of government in the main are distributed to three departments, the legislative, the executive, and the judicial, which are independent, co-ordinate and co-equal, with each of them having exclusive cognizance of

matters within its jurisdiction, supreme within its own sphere, and free from interference in the exercise of powers entrusted to it, subject to the scheme a checks and balance as constitutionally ordained.[6] It is likewise a truism that on the legislature is vested the authority to make the laws, on the executive to enforce them, and on the judiciary to interpret them in the course of deciding justiciable controversies of a private as well as of a public character in the course of which the legality of the acts of the other two branches may be tested. Petitioner would thus logically conclude that the dispute between it and the three private respondents turning on their respective rights under the private pension plan subsequently integrated in the social security scheme, the courts, not respondent Commission, constitute the appropriate forum for its resolution.

This is to ignore, however, that the principle of separation of powers is a relative theory of government not to be enforced with pedantic rigor. As a principle of statesmanship the practical demands of statecraft would argue against its theoretical application.[7] Justice Laurel, with vigor and clarity, expressed the matter thus: "The classical separation of governmental powers, whether viewed in the light of the political philosophy of Aristotle, Locke, or Montesquieu, or of the postulations of Mabini, Madison, or Jefferson, is a relative theory of government. There is more truism and actually an interdependence than in independence and separation of powers, for as observed by Justice Holmes in a case of Philippine origin, we cannot lay down 'with mathematical precision and divide the branches into watertight compartments' not only because 'the great ordinances of the Constitution do not establish and divide fields of black and white' but also because 'even the more specific of them are found to terminate in a penumbra shading gradually from one extreme to the other.' (Springer vs. Government [1928], 277 US, 189; 72 Law. ed., 845, 852.)"[8] Thus in *Arnault v. Pecson*,[9] in sustaining the power of a court of first instance to allow a person detained for having been found in contempt of Congress to be released for a period of not less than six hours as "a measure of necessity for an adequate preparation" for his trial in a pending criminal case, it was stated in the opinion of Justice Tuason, speaking for the Court, that separation of powers "is not rigid and absolute but abstract and general, intended for practical purposes and adapted to common sense. There is no such thing as complete and definite designation by the Constitution of all the particular powers that appertain to each of the several departments. The constitutional structure is a complicated system, and overlappings of governmental functions are recognized, unavoidable, and inherent necessities of governmental coordination." [10]

Only lately, in *Binging Ho v. Municipal Board of Canvassers*,[11] this Court, through Justice J. B. L. Reyes, in sustaining the validity of the authority conferred on courts of first instance to order a judicial recount and thus rejecting the contention that the function performed is administrative rather than judicial, and therefore cannot be conferred on a court, adhered to such an approach. Thus: "Appellant also seems to have overlooked one basic feature of our tripartite system of government: the existence of what Justice Holmes so appropriately termed penumbra of governmental powers, of authorities 'shading gradually from one extreme to the other', and the absence of a mathematically precise distinctive line between the actions of the recognized branches of government. Realistically, the practical demands of efficient government would prevent strict observance of the principle of separation of powers. Thus, it has been said that in determining the constitutionality of the exercise of power by a department, the question to be asked is not whether the power is essentially legislative, executive or judicial, but whether it has been specifically vested in it by the Constitution, or properly incidental to the performance of the functions of that department. And where the power is not peculiarly or distinctly legislative, executive or judicial, it is within the authority of the legislature to determine where its exercise would belong." [12] The doctrine of separation of powers then rightly viewed constitutes no obstacle to respondent Commission inquiring into the validity of the reduction of the pension of private respondents.

To view the question more narrowly, there is no merit to petitioner's assumption, flowing from his own reading of the implications of separation of powers, that the performance of a function, quasi-judicial in character, cannot be

constitutionally vested in an administrative agency like respondent Commission. The teaching of our decisions from the earliest years under this system of government is precisely to the contrary. Chief Justice Arellano as far back as 1902 in a case reported in the first volume of the Philippine Reports, erased any doubt that executive officials could in the discharge of their functions pass upon and decide legal questions. Thus, the statutory power of the then Collector of Customs "to prevent the entrance into the country of persons from abroad whom he had reasonable grounds to believe guilty of having aided, abetted, or instigated insurrection, or whom he [suspected] of coming to the Philippines" with that purpose in mind, was upheld.[13] Necessarily, the performance of such a task entailed the exercise of discretion judicial in character, but that was no argument against its validity.

So it has been since then.[14] To cast doubt, then, on the power of respondent Commission to assume jurisdiction over the question here presented on the ground that it is legal in character and is therefore cognizable only by courts of justice, comes rather late in the day. It cannot quite carry conviction. The contention, if sustained would be visited with consequences far from desirable. For if it were thus, the enforcement of statutes intended, in the language of Justice Laurel, to cope with "the growing complexity of modern life" calling for "the multiplication of the subjects of governmental regulation"[15] may be doomed to futility. Since statecraft must face the test of actuality and necessarily pragmatic in its approach, there is no justification for such insistence on ironclad formalism.

What is undeniable is that if, as is the case with the social security statutory scheme, its success depends on the respondent Commission having to exercise the powers of rule-making and adjudication, then so it must be. Nor is there any objection even from the analytical standpoint. The doctrine of separation of powers has not been ignored or disregarded, for neither the lawmaking nor the judging prerogative is actually entrusted to respondent Commission. Its function remains the enforcement and execution of the statute of its creation, impressed at times, and necessarily so, with either a quasi-legislative or a quasi-judicial character. It would thus appear beyond doubt that the first assignment of error is devoid of merit.

2. Petitioner submits in its second assignment of error that respondent Commission's holding that the reductions made by petitioner in the monthly pensions of private respondents was without legal justification. The assertion thus made, a matter concededly far from settled when advanced, was, as had been pointed out, found subsequently entitled to approval in the aforecited case of *Rivera v. San Miguel Brewery Corporation*,[16] the facts of which would appear to be highly similar. As set forth in the opinion of a unanimous Court penned by Justice Castro: "The Company has a private benefit plan its Health, Welfare and Retirement Plan - which is wholly company-financed because the employees do not contribute to its maintenance. The Company has integrated its private plan with that of the Social Security system. It remitted to the latter the contributions required of it for and in behalf of its employees - including the appellant Rivera - but at the same time it has maintained its own private plan. It is not controverted that the Company's contributions to its private benefit plan are greater than that required of it under the Social Security Act. It has, therefore, the right to deduct its contributions to the System from the benefits accruing to its employees under its private plan." [17] Then came this portion of the opinion explaining why a reduction was proper: "In the case at bar, the total of the retirement benefits due to Rivera under the private plan of the Company was P1, 261.75. But since the latter had paid the amount of P331.40 as its contribution to the Social Security System for and in behalf of Rivera, it has therefore the right to deduct the latter amount from the total amount of the retirement benefits, leaving a balance of P930.35, which latter sum was paid to Rivera. Otherwise, the Company would be paying to the System and to its private plan, both for the benefit of Rivera, the total amount of P1, 593.15 - a fact situation not envisaged by the aforequoted section 9 (of the Social Security Act) which emphatically stresses 'that the employer's total contribution to his private benefit plan and to the Social Security System shall be the same as his contribution to his private plan before the compulsory coverage.'" [18]

The holding was further fortified in a resolution denying a motion for reconsideration where this Court, again in

an opinion by Justice Castro, in rejecting the contention that the aforesaid section 9 of the Social Security Act does not authorize the reduction of retirement benefit upon retirement or at any time but only and immediately upon the integration of the private plan with the System, explained why: "A searching scrutiny of the aforementioned section fails to elicit any support for the appellant's contention. The section merely commands, inter alia, (1) the integration of private plans with the System's plan, and (2) in case the employer's contributions to his private plan are more than those required of him under the Social Security Act, the payment by him to the System of the contributions required of him, and the continuation of the payment of his contributions to the private plan less his contributions to the System. There is no express or implied mention of the need to make an immediate deduction of his contribution to the System from his contributions to the private plan. It would seem that this right to effect deduction, granted by law to the employer, can be exercised by the latter at his leisure but before payment to the employee of what is due to the latter under the private plan." [19] To lend further emphasis to what was held, it was stressed in the resolution: "And this is as it should be - for to compel the employer to make the deduction every time he pays the required premiums to the System, would be to constrain him to adopt and maintain a cumbersome accounting procedure. Surely, our lawmakers did not intend nor envision this possible inconvenience to the employer. Indeed, where a right is granted, whatever is necessary for the proper and effective exercise of said right is presumed to have been granted likewise. Else, the right becomes inutile." [20]

There is doctrinal justification, then, for this assignment of error, and petitioner must prevail.

3. So the Court would rule, except for the writer of this opinion, inclined as he is to have a reexamination of the Rivera doctrine so that the matter before us could be inquired into freed from the compulsion that its authoritative character imposes. This suggestion is made in view of the ambiguity lurking in the very same Section 9 of the Social security Act, one of its provisos precisely prohibiting any discontinuance, reduction or impairment of any benefit already earned thus giving rise to the vested right argument relied upon by the then Solicitor-General Antonio P. Barredo, now a member of this Court, on behalf of respondent Commission to sustain the challenged resolution. What is even more persuasive to the writer's way of thinking is the mandatory character of the social justice principle with its embodiment of Radbruch's theory of subordination, which if applied to labor-management relations would entitle the claims of the former to priority. Serious misgivings assail him then as to the desirability of a doctrine which, while on its face admittedly is buttressed on logical grounds and not offensive to the sense of fairness if the traditional assumption be indulged in that the scales between employer and employee are evenly balanced, still may not be in conformity with the philosophy on which the social justice mandate rests.

For it was rightly observed, in connection with an opinion holding that temporary employees fall within the coverage of the Social Security Act, that such a principle should mean that "they who have less in life should be given more in law." [21] To be more specific, where the right to a pension earned after years of diligent performance is concerned, it would be, for the writer, an unwarranted deprivation keenly felt if a diminution of what admittedly is not a munificent sum is allowed, especially so in these days when inflation apparently cannot be held in check.

Fortunately for petitioner, the Court, to repeat, is of a different mind. Hence the controlling force to be accorded to *Rivera v. San Miguel Brewery*. Petitioner's appeal must be sustained.

WHEREFORE, the resolution of respondent Commission of January 11, 1966 is reversed and set aside, and the petition filed by private respondents with respondent Commission contesting the deductions made from their monthly retirement pension plans by petitioner is dismissed. Without pronouncement as to costs.

Dizon and Zaldivar, JJ., concur.

Teehankee, J., concurs in a separate opinion.

Concepcion, C.J., Makalintal, Castro, Reyes, J.B.L. and Villamor, JJ., concurs as clarified in the separate

concurring opinion of J. Teehankee.
Barredo, J., did not take part.

[1] *Rivera v. San Miguel Corp.*, L-26197, July 20, 1968, 24 SCRA 86.

[2] Brief for the Petitioner, pp. 2-3.

[3] Resolution, Annex F to Petition, pp. 1 and 2.

[4] *Ibid*, p. 14.

[5] Section 5 of the Social Security Act as last amended by Republic Act No. 4857 (1966) reads as follows: "[Sec.] 5. Settlement of Claims. - (a) Any dispute arising under this Act with respect to coverage, entitlement to benefits, collection and settlement of premium contributions and penalties thereon, or any other matter related thereto, shall be cognizable by the Commission, and any case filed with the Commission with respect thereto shall be heard by the Commission, or any of its members, or by hearing officers duly authorized by the Commission, and decided within twenty days after the submission of the evidence. The filing, determination and settlement of claims shall be covered by the rules and regulations promulgated by the Commission." Cf. *Philippine American Life Insurance Company v. Social Security Commission*, L-20383, May 24, 1967, 20 SCRA 162.

[6] Cf. *Angara v. Electoral Commission* 63 Phil. 139 (1936). The instances cited by Justice Laurel', who wrote the opinion for the Court, are the power of the President to approve or disapprove legislation, his veto how-ever being subject to be overridden; his power to convene the legislative body in special sessions; the power in turn of the latter to confirm or reject Presidential appointments; its power not only to apportion the jurisdiction of the courts but to determine what funds to appropriate for their support; its power to impeach certain officials; and lastly as far as the judiciary is con-cerned, its power of judicial review enabling it to annul executive or legislative acts.

[7] Cf. *Richardson v. Scudder*, 160 NE 655 (1928). As Justice Cardozo pointed out: "The exigencies of government have made it necessary to relax a merely doctrinaire adherence to a principle so flexible and practical, so largely a " matter of sensible approximation as the separation of powers."

[8] *Planes v. Gil*, 67 Phil. 62, 73-74 (1939).

[9] 87 Phil. 418 (1950).

[10] *Ibid*, at p. 426.

[11] L-29051, July 28, 1969, 28 SCRA 829.

[12] *Ibid*, at pp. 834-835.

[13] *In re Patterson*, 1 Phil. 93 (1902). Cf. *Rafferty v. Judge of First Instance*, 7 Phil. 164 (1906); *Lo Po v. McCoy*, 8 Phil. 343 (1907); *Edwards v. McCoy*, 22 Phil. 598 (1912).

[14] Cf. *Philippine Ship Owners Association v. Public Utility Commissioner*, 43 Phil. 328 (1922); *Ynchausti Steamship Company v. Public Utility Commissioner*, 44 Phil. 363 (1923).

[15] *Pangasinan Transportation Co. v. Public Service Commission*, 70 Phil. 221-229 (1940).

[16] L-26197, July 20, 1968, 24 SCRA 86.

[17] *Ibid*, p. 90.

[18] Ibid.

[19] Resolution and Motion for Reconsideration, *Rivera v. San Miguel Brewery Corporation*, L-26197, August 30, 1968, 24 SCRA 947.

[20] Ibid, p. 951.

[21] *Luzon Stevedoring Corporation v. Social Security System*, L-20088, January 22, 1960, 16 SCRA 6. Cf. *Roman Catholic Archbishop v. Social Security Commission*, L-15045, January 20, 1961, 1 SCRA 10; *Franklin Baker Co. v. Social Security System*, L-17361, April 29, 1963, 7 SCRA 836; *Laguna Trans. Co., Inc. v. Social Security System*, 107 Phil. 833 (1960); *Insular Life Assurance Co. v. Social Security Commission*, L-16359, December 28, 1961, 3 SCRA 739; *San Teodoro Development Enterprises v. Social Security System*, L-17662, May 30, 1963, 8 SCRA 96; *Social Security System v. Court of Appeals*, L-25406, December 24, 1968, 26 SCRA 458.

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CONCURRING OPINION

TEEHANKEE, J.:

I concur in the main with the opinion of Justice Fernando.

I wish to add that the reduction of respondents-employees' retirement benefits under the private plan for Pensions and Death Benefits exclusively maintained by petitioner-employer since 1952 (before the enactment on June 18, 1954 of Republic Act No. 1161, imposing compulsory social security coverage and long before the actual implementation of September 1, 1957 of the Social Security Act after its amendment on June 21, 1957 by Republic Act No. 1792) is a direct result of the mandatory integration of the private benefit plan with the Social Security System plan as imposed by the Act. But over-all, respondents-employees are not prejudiced by such reduction due to the mandatory integration of the private plan with the System's plan under section 9 of the Act and the corollary mandate thereof that "where the employers' contribution to his private plan is more than that required of him in this Act, he shall pay to the System only the contribution required of him and he shall continue his contributions to such private plan less his contribution to the System so that the employers' total contribution to his Private benefit plan and to the Social Security System shall be the same as his contribution to his private plan before the compulsory coverage." [1] This is evident from the figures given in the main opinion: [2]

Petitioner Parohinog's retirement pension under the private plan was reduced by P29.99 from P140.93 to P110.94 a month, but adding his social security monthly pension from the System of P51.42, he was actually receiving an increased total pension under the two plans of P162.36 a month;

Petitioner Castillo's private plan pension was reduced by P14.60 [3] from P49.50 to P34.90 a month, but with his additional social security monthly pension of P25.00, he was actually receiving an increased total pension under the two plans of P59.50 a month; and

Petitioner Raymundo's private plan pension was reduced by P28.59 from P120.14 to P91.55 a month, but with his

additional social security monthly pension of P49.02, he was actually receiving an increased total pension under the two plans of P140.57 a month.

The 1968 case of *Rivera vs. San Miguel Corporation*, penned by Mr. Justice Castro, correctly laid down the doctrine, and properly applied the clear and unambiguous provision of section 9 of the Act, that the integration of an employer's private pension plan with the Social Security System plan could not legally result in further increasing the employer's total contribution to his private benefit plan and to the Social Security System, in the face of the Act's express mandate that such total contribution to both plans "shall be the same as his contribution to his private plan before the compulsory coverage." The reduction in the private plan pension represents the employer's monthly contributions to the System plan (which is not retained by the employer but is directly paid as the employer's premium contribution to the System) and the sum total of such contribution to the System and of the remaining contribution of the employer to his private plan remains exactly the same as his contribution solely to his private plan before the compulsory coverage, as ordained by section 9 of the Act.

The *Rivera* is therefore fully controlling in this case. And justly so. It may be readily seen that petitioner-employer's contribution to its private benefit plan exclusively maintained by it without any contribution from the employees and the resulting private pensions paid by it (even though reduced to a certain extent corresponding to the compulsory premium payment to the System plan) are still much greater than those required of it under the Social Security System. The reduced monthly pensions thus paid by it under its private benefit plan, in the case of *Parohinog and Raymundo*, amount to double their social security pensions. Nothing in the Act by implication or otherwise would warrant an inequitable construction in the name of abstract social justice that would penalize a progressive and forward-looking employer who has concretely practiced social justice towards his employees by voluntarily and unilaterally adopting and maintaining a private social security plan long before the imposition by law of compulsory social security coverage and require the employer to contribute to the compulsory plan of the System without deducting such contribution from the remaining private plan, which the employer is required to continue maintaining. An analogous example of such an unfair construction would be to require a non-agricultural employer voluntarily paying an above-minimum daily wage of P10.00 to employees without waiting for the passage of the recently enacted increased minimum wage law fixing a minimum daily wage of P8. 00 from P6.00, to still pay the increased differential of P2.00 besides the above-minimum daily wage of P10.00 already being paid by the employer.

The employer who has without compulsion of law taken the lead in complying with the spirit of the Constitutional mandate to promote social justice and in providing for social security against the hazards of disability, sickness, old age and death and thus insuring within his capabilities the well-being and economic security of his employees^[4] should not be inflicted the penalty of having to bear a greater economic burden than that which he voluntarily assumed when he adopted his private plan, which is more than that required of him under the Act, as indicated in *Rivera*. The Social Security Act recognizes this in two of its provisos in section 9 thereof: (1) the second proviso "that private plans which are existing and in force at the time of compulsory coverage shall be integrated with the plan of the System in such a way that where the employer's contribution to his private plan is more than that required of him in this Act, he shall pay to the System only the contribution required of him and he shall continue his contributions to such private plan less his contribution to the System. . . , " such that where his contribution to his private plan is less than that required of him in the Act, the private plan is absolutely integrated, or more accurately stated, merged into the System, and is discontinued after due notice to the employees;^[5] and (2) the fourth proviso "that the private benefit plan which the employer shall continue for his employees shall remain under the employer's management and control unless there is an existing agreement to the contrary."

[1] Emphasis supplied.

[2] At p. 3.

[3] 2-centavo error adjusted from P14.58 as quoted in the main opinion, to reconcile the principal figures given therein.

[4] See *Machuca Tile Co., Inc. vs. SSS*, L-24883, Oct. 31, 1969.

[5] See Resolutions of SSS, cited in 3 Montemayor, 3rd Ed., 630.

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